

*Lodder*



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Seville Management Corporation

**File:** B-225845

**Date:** March 18, 1987

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### **DIGEST**

General Accounting Office will question a selection official's determination concerning the technical merits of proposals only upon a clear showing of unreasonableness, abuse of discretion or violation of procurement statutes and regulations.

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### **DECISION**

Seville Management Corporation protests the rejection of its offer under request for proposals (RFP) No. 86-01-117, issued by the Department of Housing and Urban Development (HUD) for full service maintenance, repair, and operation management for a HUD multifamily project management demonstration program in the Oklahoma City, Oklahoma, vicinity.

The protest is denied.

Seville protests the decision of HUD's Source Evaluation Board (SEB) that Seville's proposal was not rated high enough to be placed among the proposals in the competitive range. Seville also complains that it was not given the basis for its offer being found unacceptable. Seville also protests the presence of a certain individual on the SEB because of alleged bias on the individual's part. Seville states that the individual had previously called for an inspector general audit of Seville. Seville believes this audit precipitated an internal audit at HUD which caused the individual's move from his prior job.

Seville also complains that HUD did not properly notify this Office that a contract award was being made while Seville's protest was pending.

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In considering protests such as this, we do not conduct a de novo review of the technical proposals or make an independent determination of their acceptability or relative merit. Cadillac Gage Co., B-209102, July 15, 1983, 83-2 C.P.D.

¶ 96. That is the function of the selection official who is to exercise informed judgment and sound discretion.

Macmillan Oil Co., B-189725, Jan. 17, 1978, 78-1 C.P.D.

¶ 37. Our review is limited to examining whether the evaluation was fair and reasonable and consistent with the stated evaluation criteria. Cadillac Gage Co., B-209102, supra. We will question a selection official's determination concerning the technical merits of proposals only upon a clear showing of unreasonableness, abuse of discretion or violation of procurement statutes or regulations. Bank Street College of Education, 63 Comp. Gen. 393 (1984), 84-1 C.P.D. ¶ 607. The fact that the protester disagrees with the selecting official's conclusion does not in itself render the evaluation unreasonable. Kaman Sciences Corp., B-190143, Feb. 10, 1978, 78-1 C.P.D. ¶ 117.

The HUD report shows that Seville was rated seventh of 13 offerors and the top four offerors were included in the competitive range. Other than its generalized disagreement with being excluded from the competitive range, Seville gives no reasons as to why its proposal should have been higher scored.

HUD has provided us with the SEB's evaluation of Seville's proposal for our review. The evaluation shows that Seville's proposal was deficient in many areas. For example, Seville failed to identify clearly the personnel proposed to carry out the contract responsibilities; failed to demonstrate an understanding of HUD property disposition and loan management procedures; failed to provide sufficient information concerning its knowledge, skills and experience for carrying out the contract; and failed to submit a feasible management plan. All of these deficiencies directly relate to the stated evaluation factors of management capability, experience, and personnel. Accordingly, we find that HUD had an adequate basis to exclude Seville from the competitive range.

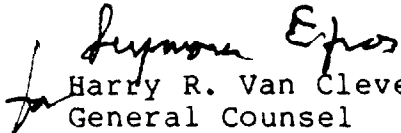
With respect to Seville's complaint that HUD did not give Seville a basis for why its offer was found unacceptable, the Federal Acquisition Regulation (FAR), 48 C.F.R. § 15.1001(b) (1986), only requires in preaward situations that the contracting officer's notice that a proposal is unacceptable state in general terms the basis for the determination. HUD informed Seville that its proposal "did not rate high enough to make the best qualified test based on

the selection panel's evaluation of the offers." Seville was not prejudiced by HUD's reply since it could also have received a debriefing from HUD and Seville did not request one. See FAR, 48 C.F.R. § 15.1003.

In cases where bias is alleged, the protester has the burden of affirmatively proving its case, and we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Sage Diagnostics, B-222427, July 21, 1986, 86-2 C.P.D. ¶ 85. The facts presented by Seville concerning a member of the SEB do not show bias and the inferences Seville draws from those facts are purely speculative. Moreover, we note that the individual in question gave Seville higher scores than the other SEB members.

Finally, regarding HUD's failure to provide us notice that it was awarding the contract while Seville's protest was pending, we note that the determination to proceed was dated January 12, 1987, and enclosed in HUD's report, received by our Office on January 15, 1987. Moreover, Seville was not prejudiced since we are denying its protest.

The protest is denied.

  
Harry R. Van Cleve  
General Counsel